

APPEAL NO. 041797
FILED SEPTEMBER 9, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 23, 2004. The hearing officer determined that the appellant (claimant) did not sustain a compensable repetitive trauma injury with a date of injury of _____; and that since there is no compensable injury there can be no disability. The claimant appeals these determinations. The respondent (carrier) urges affirmance of the hearing officer's decision.

DECISION

Affirmed.

An occupational disease includes a repetitive trauma injury. Section 401.011(34). Whether the claimant sustained a compensable repetitive trauma injury was a factual question for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Co. v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). The hearing officer did not find the claimant's testimony to be credible, and was not persuaded by the evidence that the claimant's work activities were sufficiently repetitive to cause an injury. Nothing in our review of the record indicates that the hearing officer's compensability determination is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). As the existence of a compensable injury is a prerequisite to a finding of disability (Section 401.011(16)), we similarly perceive no error in the determination that the claimant did not have disability.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier **ZENITH INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JAMES H. MOODY II
901 MAIN STREET
DALLAS, TEXAS 75202.**

Chris Cowan
Appeals Judge

CONCUR:

Elaine Chaney
Appeals Judge

Veronica L. Ruberto
Appeals Judge